

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ORLANDO MARTIN,

Plaintiff,

Case No. 2:04-cv-02360 ALA (P)

vs.

JAMES E. TILTON, et al.,

ORDER

Defendants.

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Plaintiff has named Dr. William Greenhough in this action. (Doc. 53). Based on the Court's review of the docket, it appears that Dr. Greenough has never been served.

Rule 4(m) of the Federal Rules of Civil Procedure provides, in part, that

[i]f a defendant is not served within 120 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

See Rule 4(m). Plaintiff received notice of this fact on July 2, 2008, when Defendants filed their motion for summary judgment, if not earlier. (Mem. of P & A. in Supp. of Mot. for Summ. J. at page 5:13). Plaintiff has failed to request that Dr. Greenough be re-served, or otherwise address the issue in any pleadings filed with this Court. (Doc. 112). Thus, Plaintiff has not shown good

1 cause for the failure to serve Dr. Greenough. Accordingly, Dr. Greenough is hereby
2 DISMISSED from this case without prejudice.

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4 DATED: September 30, 2008

5 /s/ Arthur L. Alarcón
6 UNITED STATES CIRCUIT JUDGE
7 Sitting by Designation
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